IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WA.No. 461 of 2007(B)

AGAINST THE JUDGEMENT IN W.P.(C).NO.26094/2003.
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APPELLANT/PETITIONER:

S. MANILAL, S/O.K.SREEDHARAN,
AGED 51, MULLACKAL GARDENS, T.V.PURAM P.O.,VAIKOM.

BY ADV. SRI.C.P.CHANDRASEKHARAN.

RESPONDENT/RESPONDENT:

THE DISTRICT COLLECTOR,
KOTTAYAM.

BY SRI.M.SHAJU PURUSHOTHAMAN,
SPL. GOVT. PLEADER (TAXES) SRI. V.V. ASOKAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN(AG.C.J.) & M.N. KRISHNAN,J.

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W.A. NO. 461 OF 2007

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Dated this the 8th day of March, 2007.

J U D G M E N T

Radhakrishnan,(Ag.C.J.)

This writ petition was preferred challenging Exts.P1 and P2 orders passed by the District Collector, Kottayam. The District Collector has stated that the petitioner is capable of paying the arrears demanded from him but he is willfully withholding the payment of arrears. According to the appellant he has no means to pay the arrears. The learned Government Pleader on instructions submitted that the appellant had filed an I.P. before the civil Court and it was dismissed for default and that the appellant did not pursue the matter further. In stead, he has approached this Court by filing the present writ petition. Attempt of the appellant is to wriggle out of the recovery proceedings which cannot be permitted.

2. From the order passed by the District Collector, there is nothing to show that he has conducted any enquiry to ascertain whether the appellant has any financial means to pay the arrears towards the sales tax. In such circumstances, we are inclined to

set aside Ext.P1 order and direct the District Collector to conduct an enquiry as to whether the appellant/petitioner has got the means to pay the amount and whether he is willfully withholding the payment of arrears.

The writ appeal is disposed of without expressing any opinion on the merits of the case.

K.S. RADHAKRISHNAN,
ACTING CHIEF JUSTICE.

M.N. KRISHNAN, JUDGE.

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